



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

January 24, 2003

Ms. Carol Longoria
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2981

OR2003-0513

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174732.

The University of Texas at Tyler (the "university") received an oral request for copies of police reports for a certain period of time. The university released the requested reports with some information redacted from the reports. After receiving this information, the requestor submitted a written request to the university which you interpreted as one for the residential addresses, business phone numbers, and residential phone numbers that had been redacted from the reports. You claim that the requested information, or portions thereof, is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted representative sample documents.¹

We note at the outset that you state that the requestor is not disputing the redaction of social security numbers and driver's license numbers from the reports. Accordingly, this ruling does not address whether any of this particular information is excepted from disclosure under the Public Information Act.

¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You claim that the residential and business addresses and phone numbers of complainants/victims, witnesses, arrestees, and suspects who were not arrested are excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. We note that a governmental body that claims that requested information is excepted from disclosure under section 552.108(a)(2) must demonstrate that the information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the investigations represented by the documents that you have submitted to us for review did not result in a conviction or deferred adjudication. Based on our review of your representations and the submitted information, we understand the university to assert that this information pertains to criminal investigations that have concluded in final results other than conviction or deferred adjudication.

Although you state that the investigation associated with case number 020201 did not result in a conviction or deferred adjudication, we note that the information associated with that case number that you have submitted to us for review reflects that the case status is "open." Because you have provided this office with conflicting information regarding this case, we cannot conclude that the information associated with this case relates to a case that has resulted in a final conclusion other than conviction or deferred adjudication. Thus, we find that the university has not demonstrated the applicability of section 552.108(a)(2) to this information. Accordingly, we conclude that the university may not withhold any portion of case number 020201 pursuant to section 552.108(a)(2) of the Government Code. Consequently, the university must release to the requestor all redacted addresses and phone numbers in case number 020201.

We agree that the university has adequately demonstrated the applicability of section 552.108(a)(2) to case numbers 020193 and 020209. However, we note that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. See Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public). Basic information includes the name, age, address, race, sex, occupation, alias, and physical condition of the arrested person, the identification and description of the complainant, and the location of the crime and premises involved. See *id.* In this instance, we find that the residential address and phone number of the complainant/victim in case number 020193 is not basic information because it is not part of the identification and description of the complainant and does not reflect the location of the crime or the premises involved. Likewise, we find that the addresses and phone numbers in case numbers 020193 and 020209 of witnesses and suspects who were not arrested are not basic information in this instance. Finally, we find that the phone number of the arrestee in case number 020209 is not basic information. Accordingly, we conclude

that the university may withhold the addresses and phone numbers of the complainant/victim, witnesses, and suspects who were not arrested in case numbers 020193 and 020209, as well as the phone number of the arrestee in case number 020209, pursuant to section 552.108(a)(2) of the Government Code. We have marked this information. We note that the university maintains the discretion to release all or part of this information. *See* Gov't Code § 552.007. Because the residential address of the arrestee in case number 020209 is considered basic information, we conclude that the university must release this information to the requestor. *See* Open Records Decision No. 127 at 3 (1976). We have also marked this information.

In summary, the university must release to the requestor all redacted addresses and phone numbers in case number 020201. The university may withhold the addresses and phone numbers of the complainant/victim, witnesses, and suspects who were not arrested in case numbers 020193 and 020209, as well as the phone number of the arrestee in case number 020209, pursuant to section 552.108(a)(2) of the Government Code. The university must release to the requestor the residential address of the arrestee in case number 020209.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).


If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/lmt

Ref: ID# 174732

Enc. Marked documents

c: Ms. Shalina R. Ramirez
Associate Editor
The University of Texas at Tyler
3900 University Boulevard
Tyler, Texas 75799
(w/o enclosures)